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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,527	08/20/2003	James E. Mathis	CM05954G	5966

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EXAMINER

FISHER, MICHAEL J

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,527

Applicant(s)

MATHIS ET AL.

Examiner

Michael J Fisher

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-30 are rejected under 35 U.S.C. 102(b) as being anticipated by US PAT 5,359,522 to Ryan (Ryan'522).

As to claim 1, Ryan'522 discloses detecting the initiation of a primary service function (putting the fuel nozzle into the receptacle col 4, lines 53-55), managing a transfer of data (col 4, lines 56-63), terminating said data transfer when one condition has been met (not receiving the proper code, col 5, lines 2-8).

As to claim 2, it would be inherent that the condition could be the completion of the primary service function as the fuel pump module would no longer receive the code when the pump was withdrawn upon completion of the fueling operation)

As to claim 3, the condition is the completion of the transfer of a predetermined amount of data (col 5, lines 2-8).

As to claims 4 and 6, the connection would be electrical (col 4, lines 41-53) and it would be a field coupling.

As to claims 5,22,23, the coupling is on a wireless network (claim 9), which would be a wireless local area network as it is shown as only working when the truck is in range (claim 1).

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As to claims 8 and 16, the identity of the entity service would be determined (col 4, lines 56-63).

As to claim 9, the first amount of data has been determined (receiving signals, col 4, lines 56-63).

As to claim 10, the first amount would be terminated before beginning fueling, therefore, it would be terminated before finishing fueling.

As to claim 11, it would be inherent that the operator was to wait for the first amount of data to be transferred as the operator is trying to fuel the vehicle.

As to claim 12, the operator would inherently wait until the first data was transferred as the fueling can't begin until the first data is transferred.

As to claim 13, the first data includes operational data for the truck (claim 8) and this would impact the duration of the primary service function as claim 8 discusses mileage elapsed since preceding fluid delivery.

As to claim 14, the primary service function is fueling (title).

As to claim 15, the entity is a vehicle (claim 6).

As to claim 17, Ryan'522 discloses a first communications element coupled to a fueling system (claim 1), and a second communications element coupled to an entity (claim 6), wherein a communications link is established (claim 1).

As to claim 18, the first communications element is coupled to a fueling nozzle (claim 11, section (d)), and the second communications element is coupled to a fuel receptacle (claim 11, sections (a) and (c)).

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Note: For examination purposes, as there does not appear to be a difference between an electrical lead and an electrical surface (they are analogous), they will be assumed to be the same thing.

As to claims 19 and 20, the connections are shown to be electrical and therefore, would be considered to be both a lead and a surface.

As to claim 24, Ryan'522 discloses an infrastructure (claim 1), including a data repository (first information storage, claim 1), a communications network element (claim 1, section (b)), a data communications controller (security means, claim 1), a first communications element (antenna, claim 9), a second communications element (claim 9) all are connected (claim 1).

As to claim 25, the controller is connected to the infrastructure (claim 1).

As to claim 26, Ryan'522 discloses a communications network element is connected to the entity (claim 8, containing operational history)

As to claims 27 and 30, Ryan'522 discloses a wireless network (claim 9), which would be a wireless local area network as it is shown as only working when the truck is in range (claim 1).

As to claim 28, as the network tracks the fueling (claim 1), it would know that the primary service function has been started.

As to claim 29, Ryan'522 discloses providing entity identification information, (claim 8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 7 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan'522.

Ryan'522 discloses a system as discussed above. Ryan'522 does not, however, teach the connection as being optical. Optical connections are very well known in the art as alternate, electronic coupling and would therefore not be patentably distinct.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US PAT 6,571,151 to Leatherman discloses a wireless nozzle interface for fuel dispenser communicating with a receptacle, US PAT 6,381,514 to

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Hartsell, Jr. discloses a dispenser system that communicates wirelessly with a vehicle, US PAT 6,363,299 to Hartsell, Jr. discloses a dispenser system that communicates wirelessly with a vehicle, US PAT 5,971,042 to Hartsell, Jr. discloses a dispenser system that communicates wirelessly with a vehicle, US PAT 5,956,259 to Hartsell, Jr. discloses a dispenser system that communicates wirelessly with a vehicle, US PAT 5,906,228 to Keller discloses a gasoline dispensing system that communicates wirelessly with a vehicle, US PAT 5,868,179 to Hartsell, Jr. discloses a dispenser system that communicates wirelessly with a vehicle, US PAT 5,857,501 to Kelerich et al. discloses a fueling system that communicates electronically with a vehicle, US PAT 5,204,819 to Ryan discloses a fluid delivery apparatus that communicates wirelessly with a vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Fisher whose telephone number is 703-306-5993. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael J. Fisher



Patent Examiner
GAU 3629

MF



12/10/04